IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 14180 of 2004

Date of Decision: 2-2-2005

LALTA PRAG

Versus

UNION OF INDIA

(for full cause title, see next sheet)

Coram:

The Hon'ble Mr.Justice Bhawani Singh, Chief Justice

The Hon'ble Mr.Justice H.K.Rathod, Judge

Whether approved for reporting?

For the Petitioner Mr.P.K.Handa, Adv.

For the Respondents Mr.J.C.Sheth, Adv.

PER: BHAWANI SINGH, CHIEF JUSTICE (ORAL):-

#. Heard finally with consent of parties, being a short matter.

#. The petitioner was removed from service vide Security Officer, Vadodara's order dated 30.3.1967. Appeal against this order was dismissed by the appellate authority. The petitioner challenged the order of punishment through Specail Civil Application No.4075 of

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Whether reporters of Local Papers may be allowed to see the Judgment?

1990. Vide judgment dated 22.2.2002, this Court modified the order of removal to that of compulsory retirement. Letters Patent Appeal No.579 of 2003 filed by Union of India was dismissed on 16.6.2003. Thereafter, the petitioner got refund of his provident fund. However, he put up claim for payment of pension. He could have opted for pension scheme in 1964-65 as per Shri Handa, learned counsel for the petitioner, but could not do so since he was ill and was admitted in Railway Hospital, Indore (Madhya Pradesh). Therefore, in substance, submission is that pension is preferable to provident fund. Therefore, petitioner should be granted pension after giving him opportunity of giving option. The petitioner is prepared to refund the provident fund.

#. From para-4 of the reply affidavit filed by Shri Ramsinh Damor, Security Officer, Ratlam Division, Western Railway, dated 17.1.2005, it is clear that pension scheme was introduced in the year 1956 but the option was offered to the working employees to either to continue in P.F.scheme and / or to opt the pension scheme. He further states that option was offered to all the employees in the year 1964 and 1974 but the petitioner had not opted the pension scheme, as such, continued in provident fund scheme, as such, on implementation of judgment, the petitioner was offered due provident fund and the same was accepted by him.

#. The petitioner could not opt for pension scheme in 1965 because he was an indoor patient in Railway Hospital, Indore. Statement in letter dated 30.3.2004 that pension scheme/ rules became effective from 1974 may be correct to the extent of 1974 but it had in fact been made applicable to the employees in 1964 as per the statement of Shri Ramsinh Damor, Security Officer, Ratlam Division, Western Railway, in the reply-affidavit referred to above. Therefore, it would be just and proper to consider the case of petitioner for payment of pension and other benefits connected therewith and ask him to refund the provident fund availed by him.

#. Therefore, this petition is allowed. The respondents are directed to consider the case of the petitioner for grant of pension and benefits connected therewith and release the same within three months. The petitioner will refund the provident fund to the respondents within a period of one month. Rule made absolute. Cost on

parties.

(BHAWANI SINGH)
CHIEF JUSTICE

(H.K.RATHOD)
JUDGE

(sunil)